



Entered on Docket  
January 05, 2010

A handwritten signature in black ink, appearing to read "Mike K. Nakagawa".

Hon. Mike K. Nakagawa  
United States Bankruptcy Judge

ROGER P. CROTEAU, ESQ.  
Nevada Bar No. 4958  
TIMOTHY E. RHODA, ESQ.  
Nevada Bar No. 7878  
ROGER P. CROTEAU & ASSOCIATES, LTD.  
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*Attorney for Debtor*  
**ROBERT W. GREENE AND**  
**MYRNA R. GREENE**

E-Filed

UNITED STATES BANKRUPTCY COURT  
DISTRICT OF NEVADA

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In re:

ROBERT W. GREENE and  
MYRNA R. GREENE,

Debtors.

Case No. BKS-09-19834-MKN  
Chapter 13

Hearing: December 10, 2009  
Time: 2:30 p.m.

**AMENDED**

**ORDER GRANTING MOTION TO VALUE COLLATERAL, "STRIP OFF"**

**AND MODIFY RIGHTS OF EMC MORTGAGE PURSUANT TO**

**11 U.S.C. §506 (a) AND §1322**

THIS MATTER having come before the Court for a hearing on December 10, 2009, on

1 Debtors' Motion to Value Collateral, "Strip Off" and Modify Rights of EMC MORTGAGE  
2 (*hereinafter "Lender"*) Pursuant to 11 U.S.C. §506 (A) and §1322, and based upon the papers  
3 and pleadings on file herein, and good cause appearing; the Court finds as follows:

- 4 1. The Debtors' real property located at 8335 Brown Mountain Court, Las Vegas,  
5 Nevada 89131 (*the "Property"*) is valued at \$188,500.00 as of the date of filing of  
6 Debtor's Chapter 13 Petition.
- 7 2. As of the petition date, the Property was encumbered by a First Trust Deed owned  
8 and/or serviced by Indymac Bank and/or DHI Mortgage Company, LTD. securing  
9 a note with a principal balance of approximately \$339,991.00
- 10 3. Lender owns and/or services a Second Trust Deed recorded with the Clark County  
11 Recorder on December 22, 2006, in book number 20061222 as instrument number  
12 0004173, securing a home equity line of credit with a principal balance of  
13 approximately \$84,997.00 (*the "Second Deed of Trust"*).
- 14 4. On the filing date of the instant Chapter 13 Petition, the Second Deed of Trust and  
15 Lender's corresponding claim was wholly unsecured.

16 IT IS THEREFORE ORDERED THAT Lender's Second Deed of Trust is hereby  
17 "stripped off" and avoided pursuant to 11 U.S.C. §506(a);

18 IT IS FURTHER ORDERED THAT Lender's Second Deed of Trust and its lien holder  
19 rights in the Property are hereby terminated and Lender's Second Deed of Trust claim and lien  
20 shall be paid as a general unsecured creditor through the Debtor's Chapter 13 plan;

21 IT IS FURTHER ORDERED THAT in the event the instant Chapter 13 matter is  
22 converted to a Chapter 7 case, this order will be void and without effect.

23 IT IS FURTHER ORDERED THAT in the event the instant Chapter 13 matter is  
24 dismissed for any reason, Lender's Second Deed of Trust and claim shall be reinstated to its  
25 status as a secured claim on the Subject Property pursuant to 11 U.S.C. §349(b).

26 **IT IS SO ORDERED.**  
27  
28

1 DATED this 22<sup>nd</sup> day of December, 2009.

2  
3  
4 Respectfully submitted by:

5 ROGER P. CROTEAU & ASSOCIATES, LTD.

6  
7 /s/TIMOTHY E. RHODA, ESQ.

8 TIMOTHY E. RHODA, ESQ.

9 Nevada Bar No. 7878

720 South Fourth Street, Suite 202

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(702) 254-7775

10 *Attorney for Debtors*

11  
12  
13 Approved / Disapproved

14  
15 RICK A. YARNALL

16 Chapter 13 Trustee

17  
18 In accordance with LR 9021, counsel submitting this document certifies as follows:

19  
20        The court has waived the requirement of approval under LR 9021.

21   X   This is a chapter 7 or 13 case, and either with the motion, or at the hearing, I have  
22 delivered a copy of this proposed order to all counsel who appeared at the hearing, any  
23 unrepresented parties who appeared at the hearing, and each has approved or disapproved the  
24 order, or failed to respond, as indicated below [list each party and whether the party has  
approved, disapproved, or failed to respond to the document]:

	<u>Approved</u>	<u>Disapproved</u>	<u>Failed to Respond</u>
25 RICK A. YARNALL	<u>          </u>	<u>          </u>	<u>      X      </u>

26  
27        I certify that I have served a copy of this order with the motion, and no parties appeared or  
28 filed written objections.